

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**JANIE SAMUEL,  
AS ADMINISTRATOR OF  
THE ESTATE OF  
CATHY LYNN TUBBS, et al.,**

**Plaintiffs,**

**-VS-**

**STEVEN M. HOOG, et al.,**

## Defendants

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 : **Case No. C-1-02-378**  
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 : **Judge Watson**  
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 : **JOINT STATUS REPORT**  
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Pursuant to this Court's Order filed October 14, 2004, the parties, through their respective counsel, hereby submit to the Court this Joint Status Report.

## 1. Nature of Case

Plaintiffs have alleged equal protection claims arising under 42 U.S.C. §1983 and the Fourteenth Amendment to the United States Constitution, as well as state law claims for intentional infliction of emotional distress. The claims arise out of 1) Defendant Fire Fighters' alleged refusal to permit Plaintiff Cathy Lynn Tubbs to be transported to the hospital by ambulance, based on her race and 2) statements and actions of the Defendants thereafter.

Defendants fully deny any allegations of racism and/or intentional infliction of emotional distress.

**2. Efforts to Settle**

A mediation in this case occurred before Mediator, Steve Calardo, but was unsuccessful. This action was stayed pending mediation until June 30, 2004.

**3. Pending Motions.**

On July 29, 2004, Defendants filed a Motion to Dismiss First Amended Complaint, contending that Defendants are entitled to qualified immunity from the claims in Plaintiffs' First Amended Complaint. (Doc. 18). The Plaintiffs responded to Defendant's Motion to Dismiss on September 13, 2004 (Doc. 20) and Defendants filed their Reply on October 4, 2004. (Doc. 22). As of this date, Defendants' Motion to Dismiss is fully briefed and waiting a decision from this Court.

On September 13, 2004, Plaintiffs filed a Motion to Strike Affidavit of Tom Lakamp, or, alternatively, Motion for Opportunity to Respond Pursuant to Rule 56 ("Motion to Strike"). (Doc. 21). Defendants filed a Memorandum in Opposition to the Motion to Strike on October 4, 2004. (Doc. 22). Plaintiffs filed their Reply on October 15, 2004. (Doc. 23). As of this date, Plaintiffs' Motion to Strike is fully briefed and waiting a decision from this Court.

**4. Oral Argument**

Plaintiffs request oral argument of all pending motions. Defendants are willing to submit the motions without oral argument.

**5. Scheduled Dates:**

No dates have been set.

6. **Discovery:**

No formal discovery has been conducted to date.

Respectfully submitted,

/s/ Geri Hernandez Geiler (by permission)

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/s/ Barbara Bison Jacobson

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Trial Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on October 22, 2004, I electronically filed the foregoing with the Clerk of Court using the CM/ECF which will send notification of such filing to Geri Hernandez Geiler, Sr. Assistant City Solicitor, Room 214 City Hall, 801 Plum Street, Cincinnati, Ohio 45202.

/s/ Barbara Bison Jacobson

Barbara Bison Jacobson